

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA	*	CASE NOS. 5:19CR00274-2
Respondent	*	
-vs-	*	JUDGE BENITA Y. PEARSON
MARQUELIS THOMAS	*	
		<u>DEFENDANT’S SENTENCING</u>
Defendant	*	<u>MEMORANDUM</u>
	* * *	

Now comes the Defendant, Marquelis Thomas, by and through undersigned counsel, and hereby submits the following Sentencing memorandum setting forth matters Defendant requests this Court to consider in rendering an appropriate sentence in this case.

I. PLEA AGREEMENT

Pursuant to the written Plea Agreement in this case the parties stipulated to the following computation:

Combined Base Offense Level	17	2D1.1(c)(12)
Acceptance of Responsibility	<u>- 3</u>	3E1.1(a)and(b)
Adjusted Offense Level	14	

The calculations set forth in the Presentence Investigation Report (PSR) are consistent with the Plea Agreement except that probation determined that the one level enhancement under U.S.S.G. 4D1.4 did not apply pursuant to 3D1.2(d) Application Note 6. Thus, the Presentence Report calculation provides for a base offense level of 16 and an adjusted offense level of 13.

II. GUIDELINE RANGE

The U.S. Probation Department has determined that Mr. Thomas' Criminal History Category to be Category II. Defendant acknowledges that a Criminal History Category II is consistent with the applicable provisions of the Federal Sentencing Guidelines. Based upon the Plea Agreement a combined adjusted offense level of 14 and Criminal History Category II, the guideline sentencing range is 18 - 24 months. The calculation set forth in the Presentence Report provides for a sentencing range of 15 – 21 months based upon the adjusted offense level of 13.

III. MITIGATING FACTORS

There are several mitigating factors which should be considered in determining an appropriate sentence in this case. It is submitted that when all factors are considered individually and collectively, the lowest sentence available within the applicable guideline range would be more than necessary to comply with the sentencing factors set forth in 18 U.S.C. 3553. Some of the factors in support of a minimum sentence within the appropriate sentencing range are:

1. Acceptance of Responsibility: Defendant has openly and completely accepted responsibility for his actions, has voluntarily entered into the Plea Agreement filed in this case and has plead guilty.
2. Extreme Remorse: Mr. Thomas has expressed extreme remorse for his actions and the resulting harm to society, his family and himself. Defendant has conducted himself in a manner exhibiting an intention to correct his behavior.
3. Post Arrest Conduct: Mr. Thomas has expressed an insight into how his conduct effects not only him but society and those around him. He has expressed a desire to become involved with treatment and to continue his education as soon as possible.
4. Personal Circumstances: Mr. Thomas is 21 years of age. He is a high school graduate, having graduated from Whitehall Yearling High School in 2016. He

participated in football and track. He enrolled in Ohio Christian University in 2017 but only attended one semester due to financial difficulties. Mr. Thomas plans to continue his education and is interested in a career in real estate and business.

Further, Mr. Thomas has significant support from family and friends who will provide guidance and support in the future, particularly his grandfather, Joey Thomas, who remains actively involved. Attached are letters of support provided for the Court's consideration.

5. Substance Abuse/Depression: The Presentence Investigation Report outlines Mr. Thomas' substantial use and dependency upon marijuana. His use impacted his judgment on the day of the offense. Prior to his arrest Defendant was unaware of the significant impact of his marijuana use. He hopes to involve himself in treatment and counseling to address his dependency. None of these facts are submitted to the Court as a defense or excuse for Defendant's acts. The information is provided to explain his circumstances and why he is determined to correct this behavior.
6. Combination of Factors: As each defendant is to be judged on his or her individual circumstances, it is submitted that the mitigating factors especially when considered together warrant the minimum sentence available within the guideline range contemplated by the Plea Agreement.

IV. SENTENCE

"The Court shall impose a sentence sufficient but not greater than necessary to comply with the purposes set forth in paragraph 2 of this subsection." 18 U.S.C. 3553(a).

It is proposed that the minimum sentence within the applicable guideline range is more than sufficient to comply with the purposes set forth in 18 U.S.C. 3553(a). Pursuant to the Presentence Report the recommend guideline range is 15 – 21 months and the Plea Agreement the range is 18 - 24 months, both at the low end of Zone D. It is submitted the minimum within the guideline range is more than sufficient pursuant to the criteria under 18 U.S.C. 3553(a). In fact, Defendant and society will be better served if he is released as the guidance and assistance provided by supervision will assist him in

pursuing his education and counseling which will aide Mr. Thomas in becoming a contributing member of society.

V. CREDIT FOR TIME SERVED

Defendant has been detained by federal authorities since May 9, 2019. He was arrested for the acts which are the basis of this case on February 2, 2019 and held in state custody until released to federal authorities. It is requested that he be granted credit for all of the time he has been held in custody for the acts which are the basis of this case, to-wit: February 2, 2019 to date or in the alternative that this Court recommend to the Bureau of Prison that he received such credit.

VI. LOCATION

Defendant requests that the Court recommend that his sentence be served in a federal facility as close to his home in Canton, Ohio. If possible, Defendant plans to enroll and participate in a drug treatment and educational programs while in custody. In furtherance of this intention Defendant respectfully requests a recommendation that he be provided drug treatment and educational training in the institution.

Respectfully submitted,

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PROOF OF SERVICE

I hereby certify that on November 26, 2019, a copy of the foregoing Defendant's Sentencing Memorandum was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/S/ JAMES R. RANFTL
JAMES R. RANFTL
Attorney for Defendant